

### **REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections set forth in the Office Action dated January 3, 2007, are respectfully requested. The claims have been amended for the sole purpose of clarity. Claims 11 and 12 have been cancelled. Claims 14-22 have been added. Claims 1-10 and 13-22 are currently pending this application.

#### **THE 101 REJECTIONS**

The Examiner rejected claims 11-13 under 35 U.S.C. 101 as directed to non-statutory subject matter. Claims 11 and 12 have been cancelled. Claim 13 depends from claim 1 which has been determined to be statutory subject matter.

#### **THE 112 REJECTIONS**

The Examiner rejected claims 1-13 under 35 U.S.C. 112 as failing to comply with the written description requirement. Specifically, the Examiner stated the term "streamed" was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed had possession of the claimed inventions. The applicants respectfully disagree with the Examiner's assessment but have removed the term "streamed" to expedite allowance.

#### **THE 102(b) REJECTIONS**

The Examiner rejected claims 1-13 under 35 U.S.C. 102(b) as anticipated by U.S. Pat. No. 5,881,229 (Singh et al.). The applicants respectfully disagree with the Examiner's assessment.

#### **THE PRIOR ART**

Singh et al. uses a cache subsystem to intercept file calls between a computer system and a distributed file system. Singh et al. disclose at col. 5, lines 58-61: "The application accesses files by making a file system call 304 to the

operating system 306. The operating system determines whether the file system call references a local or remote file." For local file system access, Singh et al. explain at col. 5, lines 62-63: "If the file system call references a local file, the operating system makes a file system call to the local file system 308." As Singh et al. describe at col. 6, lines 34-39: "If the file system call references a remote file (i.e., one located on the server), the operating system makes a file system call to the network protocol 412. However, in the present invention, a cache subsystem 414 intercepts the call to the network protocol thereby intercepting the call before it gets to the network protocol." Thus, ***Singh et al. do not intercept file system call references for local files.***

In Singh et al., files are installed locally, but distributed in the network. As explained in the Background, at col. 1, lines 38-40: "The computer system that stores a file locally is called the server with client computer systems making requests to the server to remotely access the file." After a careful reading of the Singh et al. reference, the applicants have been unable to find anything resembling local execution of a file without having been locally installed. Accordingly, the applicants respectfully assert that, on knowledge and belief, ***Singh et al. do not disclose local execution of a file without having been locally installed.***

The Examiner asserts at page 3 of the Office Action that Singh et al. teach at Col. 8, ln. 25, "a token file including file system overlay information and environmental overlay information". However, col. 8, line 25 simply discloses an FCI file. There is no file system overlay explicitly or implicitly disclosed, or even hinted at. As best understood by the applicants, an FCI file is a file compression interface file; it has nothing to do with file system overlay. Therefore the Examiner appears to be relying upon knowledge that is not disclosed in the prior art of record. If the Examiner is relying on personal knowledge to support the finding of what is known in the art, the Examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See CFR 1.104(d)(2)." MPEP 2144.03 (C).

The Examiner indicates at page 3 of the Office Action that Singh et al. each at Col. 8, ln. 25 and Col. 9, lns. 8-42, "a token file including registry overlay information". Singh et al. do not teach a "token file including registry overlay information for said target program". The section cited does not describe a token file including registry information or any data structure identifiable as a token file.

#### THE PRIOR ART DISTINGUISHED

##### Claims 1-8, 13-14

Claim 1 includes the language "a file system hook operatively interposed between a file system and an operating system of a computer, wherein, in operation, the file system hook intercepts local and remote file system calls associated with a target program." As has been discussed, Singh et al. determine whether a call is local or remote prior to execution of an interception procedure and only file system call references for remote files are intercepted; file system call references for local files are not intercepted. To anticipate a claim, a reference must teach each and every element of the claim. Since claim 1 includes the language "the file system hook intercepts local and remote file system calls associated with a target program," claim 1 is allowable over Singh et al. for at least this reason.

Claim 1 includes the language, "an agent procedure executing on the computer to use the file system hook for facilitating local execution of the target program without the target program having been locally installed." Since Singh et al. do not teach local execution of a program without the program having been locally installed, claim 1 is allowable over the Singh et al. for at least this additional reason.

Claims 2-8, 13-14, which depend either directly or indirectly from claim 1, are allowable at least for depending from an allowable base claim, and potentially for other reasons, as well.

For example, claim 2 includes the language "a token file corresponding to said target program, said token file including file system overlay information for said

target program". Since Singh et al. do not teach file system overlay information, claim 2 is allowable over Singh et al. for this additional reason.

As another example, claim 3 includes the language "a token file including registry overlay information for said target program". Since Singh et al. do not teach registry overlay information, claim 3 is allowable over Singh et al. for this additional reason.

As another example, claim 13 includes the language "a token file corresponding to said target program, said token file including environment variable changes for said target program". Since Singh et al. do not teach environment variable changes in a token file, claim 13 is allowable over Singh et al. for this additional reason.

#### Claims 9-10

Claim 9 is allowable for similar reasons to those described above with reference to claim 1. Claim 10 is allowable for similar reasons to those described above with reference to claim 2.

#### Claims 15-22

The applicants respectfully assert that for reasons described above, new claims 15-22 are allowable over the cited prior art. As was described above, Singh et al. do not intercept file system calls for local files. There is no teaching in Singh et al. regarding executing a program locally, but including file system calls associated with remote files. Claim 15, on the other hand, includes a "locally executing target program" and "a hook to intercept from the file system manager file system calls associated with the target program." Specifically, claim 15 includes the language, "the file system overlay is associated with the file system and, in operation, a locally executing target program," which the cited prior art does not disclose; and claim 15 includes the language, "the file system hook module utilizes a

hook to intercept from the file system manager file system calls associated with the target program," which the cited prior art does not disclose.

As another example, claim 15 includes the language, "the file system hook module... accesses file and directory structure in the file system overlay associated with the locally executing target program, wherein a first subset of file data identified in the file and directory structure are locally available," which the cited prior art does not disclose. This language indicates a locally executing target program with locally available data, and the file system hook module access associated data. As was previously indicated, Singh et al. do not intercept file system calls for local files.


As another example, claim 15 includes the language, "the file system hook module receives a portion of a second subset of file data identified in the directory structure from the remote server terminal," which the cited prior art does not disclose. This language indicates a portion of data for a locally executing file is received by the file system hook module. There is no teaching in Singh et al. regarding executing a program locally, but including file system calls associated with remote files.

CONCLUSION

In view of the foregoing, Applicant submits that the claims pending in the application patentably define over the prior art. The Applicant respectfully requests the Examiner withdraw rejections of all claims. A Notice of Allowance is respectfully requested.

If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned at (650) 838-4305.

Respectfully Submitted,  
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Date: July 11, 2007

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